IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2783 OF 2006
IN
FIRST APPEAL NO.1412 OF 2006

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OFFICE NOTES, OFFICE MEMORANDUM OF CORAM, APPEARANCES, COURT'S ORDERS OR DIRECTIONS AND REGISTRAR'S ORDERS	COURT'S OR JUDGES ORDERS

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Ms Shama N.Ghotekar i/by Shri N.G.Ghotekar for the Applicant.
Shri A.R.Kapadnis for the Respondent Nos.1 to 5.

CORAM : A. S. OKA, J.

DATE : JANUARY 17, 2007.

P.C.:

1. Heard the Advocate for the Applicant and the Advocate appearing for the Respondent Nos.1 to 5. If the amount in terms of order dated 12th October, 2006 is not deposited by the Applicant till today, the same shall be deposited within a period of four weeks from today. If the amount is not deposited within the extended time, ad-interim stay will stand vacated.

2. The ground on which this Appeal is preferred is that the deceased was

travelling as a gratuitous passenger in the offending truck which was a goods vehicle and therefore, the Applicant Insurance Company is not liable to honour the Award which has been passed against the insured.

3. Considering the said ground of challenge, even if the Applicant succeeds in the Appeal, it is obvious that the Award against the insured will remain and the Applicant will be entitled to recover the amount of compensation from the insured.

4. Hence, Civil Application is disposed of by directing that the Tribunal will disburse the amount to the original claimants in terms of impugned Award. It is made clear that disbursement of amount will be subject to final outcome of the Appeal.

JUDGE